

Dale Campbell

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION

IN RE: DIGITEK PRODUCT LIABILITY MDL NO. 1968
LITIGATION,

MICHAEL PASKEN, et al.,

Plaintiffs, MDL No. 2:08-1075

vs.

ACTAVIS GROUP HF, et al.,

Defendants.

- - - -

DEPOSITION OF: DALE CAMPBELL

- - - -

TRANSCRIPT MARKED CONFIDENTIAL PURSUANT TO THE TERMS
OF THE PROTECTIVE ORDER

DEPOSITION DATE:
July 31, 2009
Friday, 10:05 a.m.

LOCATION:
AKF REPORTERS, INC.
436 Boulevard of the Allies
Pittsburgh, PA 15219

TAKEN BY:
Defendant Mylan

REPORTED BY:
Pamela L. Beck
Notary Public
AKF Reference No. PB14096

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1 DEPOSITION OF DALE CAMPBELL,
a witness, called by the Defendant Mylan for
2 examination, in accordance with the Federal Rules of
Civil Procedure, taken by and before Pamela L. Beck,
3 a Court Reporter and Notary Public in and for the
Commonwealth of Pennsylvania, at AKF Reporters,
4 Inc., 436 Boulevard of the Allies, Pittsburgh,
Pennsylvania, on July 31, 2009, commencing at
5 10:05 a.m.

6
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1 A. About it?

2 Q. About the recall.

3 A. Actually, I think I talked to his associate as
4 well.

5 Q. Do you recall who the associate is?

6 A. No, I'm not sure what her name was.

7 Q. Other than telling you to stop taking the
8 Digitek, did Dr. Ellis tell you or give you
9 any further instruction?

10 A. He just told me to stop taking it immediately.

11 Q. Did you speak to the pharmacist at Rite Aid
12 regarding the recall?

13 A. No, I did not.

14 Q. Do you recall whether or not the recall letter
15 instructed you to do anything with the
16 tablets; in other words, to destroy them,
17 throw them away or return them?

18 A. They asked to return them, they would replace
19 them with new ones.

20 Q. And did you do that?

21 A. No.

22 Q. Why not?

23 A. My doctor told me to quit taking them
24 immediately.

25 Q. Right. But you understood that you could

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1 return them, the tablets to Rite Aid?

2 A. Yes.

3 Q. And I'm sorry, why didn't you do that?

4 A. My doctor told me to quit taking them, so why
5 would I return them? I mean, I didn't need
6 them anymore.

7 Q. Do you understand that if you return them, you
8 might be entitled to a refund?

9 MS. AVERY: Objection to form.

10 Q. I'm sorry?

11 A. No, they were going to replace them.

12 Q. That's what the letter said?

13 A. The letter said they would replace the pills.

14 Q. Do you recall seeing any reference in the
15 recall letter to a company called Stericycle?

16 A. No.

17 Q. When you stopped taking them, you just kept
18 the tablets?

19 A. I just left them, yes, left them in my pill
20 bag.

21 Q. Why was it that you didn't throw them away?

22 A. I just didn't really think about it. I just
23 left them in there.

24 Q. When did you determine that you were going to
25 contact an attorney regarding your ingestion

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1 of Digitek?

2 A. I got more letters, I think, and that's when I
3 contacted the attorneys.

4 Q. More letters from whom?

5 A. I guess your company or whoever. I don't know
6 who exactly it was. There was more letters
7 that came about the recall.

8 Q. Do you remember what they said?

9 A. No, ma'am, I don't.

10 Q. Do you remember how many letters?

11 A. No, I don't.

12 Q. So when did contact an attorney?

13 A. I'm not sure of the date. It was awhile after
14 I received the letter.

15 Q. And why is it that you decided to contact an
16 attorney?

17 A. To recover my, what do you call it, my co-pays
18 for buying this medicine.

19 Q. Was that your primary concern at that time, to
20 recover the co-pays?

21 MS. AVERY: Objection to form.

22 A. Pretty much.

23 Q. And what attorney did you contact?

24 A. I can't remember her name.

25 Q. Was it the same firm that is currently

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1 was taking this medicine as well.

2 Q. Do you understand what your obligations are as
3 a class representative?

4 MS. AVERY: Objection to form.

5 A. To try and recover the losses they had as
6 well.

7 Q. Do you understand that you could have filed a
8 lawsuit simply on your own behalf, in other
9 words, not be part of a class action?

10 A. I'm sure I could have, yes.

11 Q. Why is it that you decided you wanted to
12 pursue this as a class action and be the
13 representative?

14 A. To help the other people that took a loss as
15 well.

16 Q. Have you met or spoken to any other members of
17 this class?

18 A. No, ma'am.

19 Q. Do you know any of their names or any of
20 their --

21 A. No, ma'am.

22 Q. Do you know where they live or any of that
23 information?

24 A. No.

25 Q. Do you have any information regarding the

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1 injuries that they're claiming?

2 A. No, ma'am.

3 MS. AVERY: Objection to form.

4 Q. Do you have any information as to how you
5 were selected to be class representative?

6 MS. AVERY: Objection to form,
7 mischaracterizes the testimony.

8 A. Repeat that.

9 Q. Do you know why you are a class
10 representative?

11 A. I had medicine.

12 Q. Do you understand that there are certain
13 obligations that a class representative has as
14 opposed to a member of a class action?

15 A. No.

16 Q. So, you don't understand what the difference
17 in those obligations are?

18 MS. AVERY: Objection to form.

19 A. Well, what do you mean?

20 Q. I'm trying to find out what you mean. Do you
21 understand what obligations a class
22 representative has?

23 MS. AVERY: Objection to form, calls
24 for a legal conclusion.

25 A. That I'm representing the other people that

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1 maybe got injured by this medicine.

2 Q. So, there are class representatives and then
3 there are class members. Do you understand
4 that difference?

5 A. Yes.

6 MS. AVERY: Objection to form.

7 Q. Do you know why or how you were chosen to be a
8 class representative rather than a class
9 member?

10 MS. AVERY: Objection to form.

11 A. No.

12 Q. Have you been promised anything other than
13 recovery as a member of the class?

14 A. No.

15 Q. What is it that you're hoping to recover in
16 this lawsuit?

17 A. My co-pay for all the medicine and the co-pay
18 for all of the people in the class action
19 suit.

20 Q. Now, as I understand it, you are bringing
21 claims alleging that you were physically
22 harmed by Digitek?

23 A. I was very sick, yes.

24 Q. And you're also claiming a financial injury;
25 is that correct?

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1 Q. Did you do any research regarding Digoxin or
2 Digitek when you first started taking it?

3 A. No, I just -- my doctor told me I needed this
4 medicine and I took it. You know, I got faith
5 in him. I hate to be this way, but I got to
6 use the men's room again.

7 Q. Oh, that's quite all right.

8 - - - -

9 (There was a recess in the
10 proceedings.)

11 - - - -

12 BY MS. DOWNIE:

13 Q. Have you ever known anybody else who took
14 Digitek or Digoxin?

15 A. No, ma'am.

16 Q. I understand from your earlier testimony, you
17 haven't spoken to any of your class members
18 about their ingestion; is that right?

19 A. Yes.

20 Q. Other than talking to your doctor about
21 Digitek or Digoxin, did you speak to anybody
22 else while you were taking the drug about the
23 drug?

24 A. No.

25 Q. Ever talk to your pharmacist about the

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1 A. No, not that I can think of, no.

2 Q. Do you know whether or not Dr. Ellis or
3 Dr. McCaslin has ever testified your serum
4 Digoxin levels?

5 A. I have no clue what they test for, no.

6 Q. Have you ever been told that you had an
7 elevated serum Digoxin level?

8 A. No.

9 Q. Have you ever talked to anybody from either
10 one of our clients, Actavis or Mylan?

11 A. Not that I remember, no.

12 Q. Have you ever had any written contact with
13 anybody from our clients?

14 MS. AVERY: I assume you mean aside
15 from us obviously?

16 MS. DOWNIE: Yeah, thank you.

17 A. No.

18 Q. Did Dr. Ellis or Dr. McCaslin ever provide you
19 with any samples of Digitek or Digoxin?

20 A. No.

21 Q. Do you ever remember seeing any other name on
22 your prescription bottle other than Digitek or
23 Digoxin?

24 A. No.

25 Q. When you took your Digitek or Digoxin, when

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1 probably had already taken those tablets from
2 the previous prescription and were only taking
3 pills out of that bottle?

4 A. I would say yes.

5 Q. At any time that you were taking Digitek, did
6 you ever notice anything unusual regarding
7 their appearance?

8 A. No.

9 Q. Did you ever notice whether or not any of them
10 looked larger or smaller than you had
11 typically seen them appear?

12 A. No, ma'am. All I knew is they were my
13 medicine, I took them, you know.

14 Q. Now, you claim in your fact sheet that you
15 suffered injuries as a result of taking the
16 Digitek.

17 A. I was sick.

18 Q. When did you first begin suffering symptoms?

19 A. I can't give you an exact date, all I know is
20 I was sick.

21 Q. Why don't we try this, was it a weekday or on
22 a weekend?

23 A. I'm not really sure.

24 Q. Was it in the morning or the afternoon or the
25 evening?

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1 A. I have no clue.

2 Q. How long after you took your medication in the
3 morning did you begin to feel, as you've
4 termed it, sick?

5 A. I have not a clue. It's been awhile. I mean,
6 all I know is I was ill.

7 Q. Tell me exactly how you were feeling.

8 A. Dizzy, nausea, you know, I had palpitations.
9 I just wasn't feeling great at all.

10 Q. Did you throw up?

11 A. Yes, I did.

12 Q. How many times?

13 A. Just once that I know of.

14 Q. How long did these symptoms last?

15 A. Quite awhile, that's all I know, is awhile,
16 because my sisters and my niece and that
17 wanted me to go see the doctor because I
18 wasn't feeling good, I wasn't looking good.

19 Q. When you say quite awhile, that means
20 different things to different people, so.

21 A. I'm not exactly sure on exact times and dates,
22 but I was sick for awhile.

23 Q. Was it more than a day or two days?

24 A. Oh, yeah, definitely.

25 Q. Was it more than a week?

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1 A. I would say, yes.

2 Q. Was it more than two weeks?

3 A. Yes, definitely.

4 Q. More than three weeks?

5 A. It was probably a month anyhow, let's put it
6 that way. It might have even been more.

7 Q. During that month that you weren't feeling
8 well, and you've already said you were feeling
9 dizzy, nauseous and palpitations. Can you
10 describe for me any other way that you were
11 feeling, any other symptoms that you were
12 having.

13 A. Chest pains, tired, very tired. I would just
14 collapse, you know, pass out. I slept quite a
15 bit.

16 Q. Did you call the doctor during this time
17 period?

18 A. No.

19 Q. Why not?

20 A. Stubborn, I'm sick of doctors.

21 Q. I'm guessing you probably didn't go to a
22 hospital or an ER?

23 A. No, I did not.

24 Q. Did you speak to anybody in your doctor's
25 office about how you were feeling?

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1 May of 2008?

2 A. I don't really think I did.

3 Q. Is there any other reason, other than what
4 you've already told me, as to why you believe
5 that Digitek caused the illness that you
6 experienced in May of 2008?

7 A. Nothing I can think of, any other reason.

8 Q. What is it that you believe that the
9 defendants did wrong in their production or
10 manufacturer of Digitek?

11 A. Well, evidently they didn't use the quality
12 control that should have been used.

13 Q. How so?

14 A. Well, if there's a recall, what happens? How
15 does that recall come about?

16 Q. Why was there a recall?

17 A. Because the pills were extra strength,
18 according to the paper, extra strength, you
19 know, more medicine in them than there's
20 supposed to be.

21 Q. Do you know how many pills were found to be
22 extra strength?

23 A. No, I don't.

24 Q. Do you know actually if any pills were found
25 to be extra strength?

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1 A. I have not a clue.

2 Q. Do you have any evidence yourself, apart from
3 what your attorneys may or may not have done
4 on your behalf, that the pills you took were
5 extra strength?

6 A. Do I have any evidence?

7 Q. Yeah.

8 A. No, ma'am, I don't.

9 Q. Do you know what some of the common side
10 effects of Digoxin are?

11 MS. AVERY: Objection to form.

12 A. I read the paper, you know, when I started
13 taking them, but no, I'm not exactly sure of
14 all of the side effects, no.

15 Q. Has anybody ever told you that you experienced
16 Digoxin toxicity?

17 A. No.

18 Q. Has anybody ever told you that you experienced
19 an overdose of Digoxin?

20 A. No.

21 Q. Do you believe that you're currently suffering
22 any injury or symptoms as a result of your
23 injection of Digitek?

24 A. Do I believe that I am?

25 Q. Yeah.

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1 speculation.

2 MS. DOWNIE: Yeah, it does.

3 Q. I'm trying to understand specifically when you
4 think you should be reimbursed.

5 A. For whatever the bad medicine was. For me
6 specifically you're saying; right?

7 Q. Uh-huh.

8 A. Yeah, whatever time frame the bad medicine was
9 there, that's what I feel I should be
10 compensated for.

11 Q. Are there any other financial injuries that
12 you believe you've suffered other than the
13 co-pay?

14 A. Financial injuries?

15 Q. That's correct.

16 A. No.

17 Q. Do you believe that you're going to require
18 any future medical treatment?

19 MS. AVERY: Okay, you obviously
20 recognize the fault in that, so why don't you
21 try and rephrase it.

22 Q. Your fact sheet does identify some fact
23 witnesses, and I believe we already probably
24 identified them, but I just want to make sure
25 that we, in fact, know who they are. And

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1 A. Yes.

2 Q. So you don't have a loss of consortium claim
3 or anything like that?

4 A. No.

5 Q. Your fact sheet talks about the workers' comp
6 and Social Security disability claims, and it
7 looks like that time period says the
8 application was filed in 2004 or 2005.

9 Does that sound right to you?

10 A. Yeah.

11 MS. DOWNIE: Why don't we go off the
12 record for a moment or two.

13 - - - -

14 (There was a discussion off the
15 record.)

16 - - - -

17 MS. DOWNIE: Back on the record.

18 BY MS. DOWNIE:

19 Q. I just want to confirm, with respect to the
20 members of your class, I know you haven't met
21 any of them or talked to any of them, do you
22 have any information at all regarding the
23 nature of their claims?

24 MS. AVERY: Objection to form.

25 A. No.

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1 Q. Do you have any information specifically
2 regarding what medical damages they're
3 claiming?

4 A. No.

5 Q. Do you have any information specifically
6 regarding the financial damages that they are
7 claiming?

8 A. No, I do not.

9 MS. DOWNIE: Those are all of the
10 questions that I have. Thank you.

11 - - - -

12 EXAMINATION

13 - - - -

14 BY MR. DOHENY:

15 Q. Mr. Campbell?

16 A. Yes.

17 Q. John Doheny, I introduced myself previously.
18 I am an attorney for Actavis, which made
19 Digitek for a period of time.

20 You mentioned that you hurt your
21 back carrying a 100-pound sack?

22 A. Yes, sir.

23 Q. Do you recall when that was?

24 A. 2000.

25 Q. Was that before you began with the heart

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1 COMMONWEALTH OF PENNSYLVANIA) CERTIFICATE

2 COUNTY OF ALLEGHENY) SS:

3 I, Pamela L. Beck, a Court Reporter and Notary
4 Public in and for the Commonwealth of Pennsylvania,
5 do hereby certify that the witness, DALE CAMPBELL,
6 was by me first duly sworn to testify to the truth;
7 that the foregoing deposition was taken at the time
8 and place stated herein; and that the said
9 deposition was recorded stenographically by me and
10 then reduced to printing under my direction, and
11 constitutes a true record of the testimony given by
12 said witness.

13 I further certify that the inspection, reading
14 and signing of said deposition were NOT waived by
15 counsel for the respective parties and by the
16 witness.

17 I further certify that I am not a relative or
18 employee of any of the parties, or a relative or
19 employee of either counsel, and that I am in no way
20 interested directly or indirectly in this action.

21 IN WITNESS WHEREOF, I have hereunto set my
22 hand and affixed my seal of office this 5th day of
23 August, 2009.

24 _____

25 Notary Public

**FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION**

IN RE: DIGITEK®
PRODUCT LIABILITY LITIGATION

MDL DOCKET NO. 1968

THIS DOCUMENT APPLIES ONLY TO:
Michael Pasken, et al.,

NO. 2:08-cv-1075

Plaintiff,

v.

Actavis Group hf, et al.,

Defendants.

ERRATA SHEET TO DEPOSITION TRANSCRIPT OF DALE CAMPBELL

<u>Page:Line(s)</u>	<u>Correction</u>
various	There are various medical references and company names (e.g., "Bertech" instead of "Bertek") throughout the transcript. I have not checked the court reporter's spelling to determine if any of them need to be corrected.
various	Everyone, myself included, repeatedly misspell my physician's name. I believe that the correct spelling of his name is Gustav Eles.
28:17-9	The phrase "My co-pay for all the medicine and the co-pay for all of the people in the class action suit" should be corrected to state "My co-pay for all the medicine and the co-pay and anything else the court allows for all of the people in the class action suit." The reason for the change is that as I read

that the court has the final say on what is or is not included in a lawsuit.

various One of my sister's names is typed as "Louie". Her name is "Lou Ellen" and the shortened form is "Lou E".

various I noticed a number of errors in questions, but since I was not the person saying them, I don't think that I can correct them. For example, on page 55, line 18, the question refers to "abnormal health rhythm" and I believe she said "abnormal heart rhythm".

There may be other spelling, grammatical, or other transcription errors in the transcript. It is possible that I may not have caught and corrected all of those, particularly with respect to comments or statements that were not mine.

I declare under penalty of perjury under the laws of the U.S. that the above corrections are true and correct to the best of my knowledge, information, and belief. Executed this 15th day of September, 2009.



Dale Campbell